

AMENDED IN SENATE MAY 6, 2010  
AMENDED IN ASSEMBLY MARCH 25, 2010  
AMENDED IN ASSEMBLY MARCH 23, 2010  
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1668**

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**Introduced by Assembly Member Knight  
(Coauthors: Assembly Members Cook and Jeffries)**

January 20, 2010

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An act to amend Sections 34902, 36512, 57377, and 57379 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1668, as amended, Knight. Local government: city councils.

(1) Existing law requires a city council to, within 30 days of a vacancy in an elective office, fill that vacancy by appointment or call a special election to fill the vacancy, as specified.

This bill would require the city council to, within 60 days of a vacancy in an elective office, fill that vacancy by appointment or call a special election to fill the vacancy, as specified.

(2) Existing law specifies the procedures for election of, and terms of office for, city council members and elective officers following an incorporation of a city.

This bill would revise the initial terms of office for city council members and elective officers following an incorporation of a city.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares that the  
2 administration of a special election to fill a vacant position on a  
3 city council often results in a large and sometimes unnecessary  
4 financial burden on the citizens of the affected city.

5     SEC. 2. Section 34902 of the Government Code is amended  
6 to read:

7     34902. (a) If a majority of the votes cast on the proposition is  
8 for it, the office of mayor shall thereafter be an elective office,  
9 except as provided in subdivision (b). At the next succeeding  
10 general municipal election held in the city, one of the offices of  
11 city councilperson, to be filled at the election, shall be designated  
12 as the office of mayor, to be filled at the election. The person  
13 elected at the election as mayor shall hold office from the Tuesday  
14 succeeding his or her election, and until his or her successor is  
15 elected and qualifies.

16     In the case of a vacancy in the office of the mayor for any reason,  
17 the council shall fill the vacancy by appointment. If the council  
18 fails to fill it within 60 days, it shall call an election to fill the  
19 vacancy to be held on the next established election date to be held  
20 not less than 114 days thereafter. A person appointed or elected  
21 to fill a vacancy shall hold office for the unexpired term of the  
22 former incumbent.

23     (b) After an office of elective mayor has been established, the  
24 city council may subsequently submit to the electors the question  
25 of whether or not to eliminate the elective office of mayor, pursuant  
26 to the procedures enumerated in this article, and thereby reestablish  
27 the procedure of selection of the mayor by the city council. If a  
28 majority of the votes cast on the proposition are in favor of the  
29 elimination of the office of elective mayor, the office shall be  
30 eliminated on the expiration date of the incumbent's term, and on  
31 the date the procedure of selection of the mayor by the city council  
32 shall be reestablished.

33     SEC. 3. Section 36512 of the Government Code is amended  
34 to read:

35     36512. (a) If a vacancy occurs in an appointive office provided  
36 for in this chapter, the council shall fill the vacancy by  
37 appointment. A person appointed to fill a vacancy holds office for  
38 the unexpired term of the former incumbent.

1 (b) If a vacancy occurs in an elective office provided for in this  
2 chapter, the council shall, within 60 days from the commencement  
3 of the vacancy, either fill the vacancy by appointment or call a  
4 special election to fill the vacancy. The special election shall be  
5 held on the next regularly established election date not less than  
6 114 days from the call of the special election. A person appointed  
7 or elected to fill a vacancy holds office for the unexpired term of  
8 the former incumbent.

9 (c) Notwithstanding subdivision (b) and Section 34902, a city  
10 may enact an ordinance that does any of the following:

11 (1) Requires that a special election be called immediately to fill  
12 every city council vacancy and the office of mayor designated  
13 pursuant to Section 34902. The ordinance shall provide that the  
14 special election shall be held on the next regularly established  
15 election date not less than 114 days from the call of the special  
16 election.

17 (2) Requires that a special election be held to fill a city council  
18 vacancy and the office of mayor designated pursuant to Section  
19 34902 when petitions bearing a specified number of verified  
20 signatures are filed. The ordinance shall provide that the special  
21 election shall be held on the next regularly established election  
22 date not less than 114 days from the filing of the petition. A  
23 governing body that has enacted such an ordinance may also call  
24 a special election pursuant to subdivision (b) without waiting for  
25 the filing of a petition.

26 (3) Provides that a person appointed to fill a vacancy on the city  
27 council holds office only until the date of a special election which  
28 shall immediately be called to fill the remainder of the term. The  
29 special election may be held on the date of the next regularly  
30 established election or regularly scheduled municipal election to  
31 be held throughout the city not less than 114 days from the call of  
32 the special election.

33 (d) (1) Notwithstanding subdivision (b) and Section 34902, an  
34 appointment shall not be made to fill a vacancy on a city council  
35 if the appointment would result in a majority of the members  
36 serving on the council having been appointed. The vacancy shall  
37 be filled in the manner provided by this subdivision.

38 (2) The city council may call an election to fill the vacancy, to  
39 be held on the next regularly established election date not less than  
40 114 days after the call.

(3) If the city council does not call an election pursuant to paragraph (2), the vacancy shall be filled at the next regularly established election date.

SEC. 4. Section 57377 of the Government Code is amended to read:

57377. Officers, except members of the city council, shall hold office until the first succeeding general municipal election held in the city and until their successors are elected and qualified. Of the five elected members of the city council, the two receiving the lowest number of votes shall hold office until the first succeeding general municipal election held in the city and until their successors are elected and qualified, and the three receiving the highest number of votes shall hold office until the second succeeding general municipal election held in the city and until their successors are elected and qualified. If two or more members of the city council are elected by the same number of votes, the terms of each shall be determined by lot. The members of the city council elected to succeed the members elected at the incorporation election shall hold office for four years from the Tuesday succeeding their election, and until their successors are elected and qualified.

SEC. 5. Section 57379 of the Government Code is amended to read:

57379. If the first general municipal election following an incorporation election will occur less than one year after the effective date of incorporation, or occurred on or after November 1, 1987, and less than one year after the incorporation election, of the five elected members of the city council, the two receiving the lowest number of votes shall hold office until the second general municipal election following the incorporation election and until their successors are elected and qualified, and the three receiving the highest number of votes shall hold office until the third general municipal election following the incorporation election and until their successors are elected and qualified.

The first general municipal election following the incorporation election shall not be held unless either a proposition is to be voted upon or offices other than city council member offices are to be filled.

In the event that, pursuant to ~~Section 56727~~ 56724, the first election for city council members was held after the election on

- 1 the incorporation proposal, the term “incorporation election” in
- 2 this section means the first election for city council members.

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